

The third bridge will alleviate long-term (year 2020+) transportation demands and congestion associated with the current Marion Street and Center Street bridges which provide access across the Willamette River between downtown Salem and West Salem. The Pine/Tryon corridor has been identified as one of many corridors in the Willamette River Crossing Capacity (WRCC) Study to alleviate congestion on both Marion Street and Center Street Bridges and at the east and west ramps for the two existing bridges. (Copies of the WRCC study, Phase 1, are available from the MWVCOG at telephone (503) 588-6177 or at their office at 105 High Street S.E., Salem, Oregon 97301-3667).

Information describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have expressed interest or are known to have an interest in this proposed project. A local formal scoping meeting is scheduled on January 20, 2000, at 8:30 a.m. to 5:00 p.m., at the ODOT Region 2 Headquarters, 455 Airport Road S.E., Building B, Room 116, Salem, Oregon.

Public informational meetings will be held by ODOT and MWVCOG during project development and a public hearing will be scheduled. The draft EIS will be available for public and agency review and comments prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified; comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued: December 21, 1999.

Elton H. Chang,

Environmental Engineer, Oregon Division.

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DEPARTMENT OF TRANSPORTATION

Office of Motor Carrier Safety

[OMCS Docket No. 99-6156 (formerly FHWA Docket No. 99-6156)]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Office of Motor Carrier Safety (OMCS), DOT.

ACTION: Notice of final disposition.

SUMMARY: The OMCS announces its decision to exempt 40 individuals from

the vision requirement in 49 CFR 391.41(b)(10).

DATES: January 3, 2000.

FOR FURTHER INFORMATION CONTACT: For information about the vision exemptions in this notice, Ms. Sandra Zywock, Office of Motor Carrier Research and Standards, (202) 366-2987; for information about legal issues related to this notice, Ms. Judith Rutledge, Office of the Chief Counsel, (202) 366-0834, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users may access all comments received by the U.S. DOT Dockets, Room PL-401, by using the universal resource locator (URL): <http://dms.dot.gov>. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512-1661. Internet users may reach the Office of the Federal Register's home page at: <http://www.nara.gov/fedreg> and the Government Printing Office's web page at: <http://www.access.gpo.gov/nara>.

Background

The Secretary has rescinded the authority previously delegated to the Federal Highway Administration to perform motor carrier functions and operations. This authority has been redelegated to the Director, Office of Motor Carrier Safety (OMCS), a new office within the Department of Transportation [64 FR 56270, October 19, 1999]. This explains the docket transfer. The new OMCS assumes the motor carrier functions previously performed by the FHWA's Office of Motor Carrier and Highway Safety (OMCHS). Ongoing rulemaking, enforcement, and other activities of the OMCHS, initiated while part of the FHWA, will be continued by the OMCS. The redelegation will cause no changes in the motor carrier functions and operations of the offices or resource centers.

Forty individuals petitioned the FHWA for an exemption of the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of commercial

motor vehicles (CMVs) in interstate commerce. The OMCS is now responsible for processing the vision exemption applications of the 40 drivers. They are Herman Bailey, Jr., Mark A. Baisden, Brad T. Braegger, Kenneth Eugene Bross, Erick H. Cotton, Fletcher E. Creel, Richard James Cummings, Daniel R. Franks, William L. Frigic, Curtis Nelson Fulbright, Victor Bradley Hawks, Vincent I. Johnson, Myles E. Lane, Sr., Dennis J. Lessard, Jon G. Lima, Richard L. Loeffelholz, Herman Carl Mash, Joseph M. Porter, Richard Rankin, Robert G. Rasicot, A.W. Schollett, Melvin B. Shumaker, Clark H. Sullivan, Wayland O. Timberlake, Norman R. Wilson, Larry M. Wink, Jeffrey G. Wuensch, Jon H. Wurtele, Walter M. Yohn, Jr., Steven H. Heidorn, James Donald Simon, William A. Bixler, Woodrow E. Bohley, George L. Silvia, Martin Postma, Steven L. Valley, Phillip P. Smith, Robert W. Nicks, Frank T. Miller, and Roger Allen Dennison. Under 49 U.S.C. 31315 and 31136(e), the OMCS may grant an exemption for a renewable 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." Accordingly, the OMCS evaluated the petitions on their merits and made a preliminary determination that the waivers should be granted. On July 26, 1999, the agency published notice of its preliminary determination and requested comments from the public (64 FR 54948). The comment period closed on November 8, 1999. Two comments were received, and their contents were carefully considered by the OMCS in reaching the final decision to grant the petitions.

Vision and Driving Experience of the Applicants

The vision requirement in 49 CFR 391.41(b)(10) provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber.

Since 1992, the FHWA has undertaken studies to determine if this vision standard should be amended. The final report from our medical panel recommends changing the field of vision standard from 70° to 120°, while

leaving the visual acuity standard unchanged. (See Frank C. Berson, Mark C. Kuperwaser, Lloyd Paul Aiello, and James W. Rosenberg, "Visual Requirements and Commercial Drivers," October 16, 1998, filed in the docket). The panel's conclusion supports the OMCS" (and previously the FHWA's) view that the present standard is reasonable and necessary as a general standard to ensure highway safety. The OMCS also recognizes that some drivers do not meet the vision standard but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely.

The 40 applicants fall into this category. They are unable to meet the vision standard in one eye for various reasons, including amblyopia, retinal detachment, macular defect, and loss of an eye due to trauma. In most cases, their eye conditions were not recently developed. All but 14 applicants were either born with their vision impairments or have had them since childhood. The 14 individuals who sustained their vision conditions as adults have had them for periods ranging from 3 to 40 years.

Although each applicant has one eye which does not meet the vision standard in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye and, in a doctor's opinion, can perform all the tasks necessary to operate a CMV. The doctors' opinions are supported by the applicants' possession of a valid commercial driver's license (CDL). Before issuing a CDL, States subject drivers to knowledge and performance tests designed to evaluate their qualifications to operate the CMV. All these applicants satisfied the testing standards for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a commercial vehicle, with their limited vision, to the satisfaction of the State. The Federal interstate qualification standards, however, require more.

While possessing a valid CDL, these 40 drivers have been authorized to drive a CMV in intrastate commerce even though their vision disqualifies them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 5 to 53 years. In the past 3 years, the 40 drivers had a total of four moving violations among them. Two drivers were involved in accidents in their CMVs, but none of the CMV drivers received a citation.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in

an October 8, 1999, notice (64 FR 54948). Since the docket comments did not focus on the specific merits or qualifications of any applicant, we have not repeated the individual profiles here. Our summary analysis of the applicants as a group, however, is supported by the information published at 64 FR 54948.

Basis for Exemption Determination

Under 49 U.S.C. 31315 and 31136(e), the OMCS may grant an exemption from the vision standard in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting these drivers to drive in interstate commerce as opposed to restricting them to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, the OMCS considered not only the medical reports about the applicants' vision but also their driving records and experience with the vision deficiency. Recent driving performance is especially important in evaluating future safety according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of accidents and traffic violations. Copies of the studies have been added to the docket.

We believe we can properly apply the principle to monocular drivers because data from the vision waiver program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively. (See 61 FR 13338, 13345, March 26, 1996). That experienced monocular drivers with good driving records in the waiver program demonstrated their ability to drive safely supports a conclusion that other monocular drivers, meeting the same qualifying conditions to those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that accident rates for the same individual exposed to

certain risks for two different time periods vary only slightly. (See Bates and Neyman, University of California Publications in Statistics, April 1952.) Other studies demonstrated theories of predicting accident proneness from accident history coupled with other factors. These factors, such as age, sex, geographic location, mileage driven and conviction history, are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future accidents. (See Weber, Donald C., "Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process," Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall accident predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 40 applicants, we note that cumulatively the applicants have had only two accidents and four moving violations in the last 3 years. None of the violations involved a serious traffic violation as defined in 49 CFR 383.5, and neither of the accidents resulted in a citation. The applicants achieved this record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, the OMCS concludes their ability to drive safely can be projected into the future.

We believe applicants' intrastate driving experience provides an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exist on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances are more compact than on highways. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 5

years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he or she has been performing in intrastate commerce. Consequently, the OMCS finds that exempting applicants from the vision standard in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the agency will grant the exemptions for the 2-year period allowed by 49 U.S.C. 31315 and 31136(e).

We recognize that the vision of an applicant may change and affect his/her ability to operate a commercial vehicle as safely as in the past. As a condition of the exemption, therefore, the OMCS will impose requirements on the 40 individuals consistent with the grandfathering provisions applied to drivers who participated in the agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in its driver qualification file, or keep a copy in his/her driver qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving so it may be presented to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

The OMCS received two comments in this proceeding. Each comment was considered and is discussed below.

The Licensing Operations Division of the California Department of Motor Vehicles commented, in the case of applicant 6 (Mr. Fletcher E. Creel), that it does not oppose the granting of an exemption from the Federal vision requirements to Mr. Creel; however, the Department of Motor Vehicles will continue to impose restrictions from transporting passengers or hazardous materials on his CDL. Because the OMCS has determined that exempting Mr. Creel from the vision standard in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that without the

exemption, the agency does not believe it is necessary to impose this further restriction upon Mr. Creel or any of the applicants, for that matter. The OMCS sets the testing and licensing standards for commercial drivers; however, it is the State that implements these standards and issues the CDL.

Therefore, the State, California in this case, has jurisdiction to set licensing restrictions for commercial operations.

In another comment, the Advocates for Highway and Auto Safety (AHAS) expressed continued opposition to the FHWA's policy to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs) including the driver qualification standards. Specifically, the AHAS: (1) Asks the agency to clarify the consistency of the exemption application information provided at 64 FR 54948, (2) objects to the agency's reliance on conclusions drawn from the vision waiver program, (3) raises procedural objections to this proceeding, (4) claims the agency has misinterpreted statutory language on the granting of exemptions (49 U.S.C. 31315 and 31136(e)), and finally, (5) suggests that a recent Supreme Court decision affects the legal validity of vision exemptions.

On the first issue regarding clarification of exemption application information, the AHAS points to what it sees as "inconsistencies and differences in the types of information" provided in individual applications. The AHAS questions why the FHWA omitted information on mileage driven for 6 of the 40 applicants. This difference in the presentation of information simply reflects the OMCS' case-by-case assessments of individual applications. Total mileage driven was provided as an indicator of overall CMV experience. The omission of total mileage information for 6 of the 40 applicants is not significant since all 40 applicants have 3 years of experience operating a CMV with their vision deficiency in a period recent enough for the OMCS to verify their safety records.

The AHAS identifies other apparent inconsistencies, such as the use of different terminology describing the driving records of applicants. As previously stated at 64 FR 66962, the use of different terminology simply reflects the agency's case-by-case assessments of individual applications as to whether there were any accidents or traffic violations in a CMV in the past 3 years. Regardless of how the agency states this information—that is, in a CMV, in any vehicle or no accidents or violations, it indicates that the applicant has not had an accident or traffic violation in a CMV in the last 3 years.

The use of different terminology is not, as the AHAS continues to suggest, an attempt by the OMCS to manipulate information in such a way as to "put the best possible appearance on each petition for exemption."

In another comment, the AHAS again suggests that the agency is "sanitizing" the information in the driving record to justify granting vision exemptions. As previously stated at 64 FR 66962, specific information provided on accidents and traffic violations of the applicants is a presentation of the facts as we know them and not any attempt to downplay or explain away accidents and citations as the AHAS suggests.

The AHAS also comments that "the opinions of the ophthalmologists and especially optometrists, are not persuasive and should not be relied on by the agency." The opinions of the vision specialists on whether a driver has sufficient vision to perform the tasks associated with operating a CMV, are made only after a thorough vision examination including formal field of vision testing to identify any medical condition which may compromise the visual field such as glaucoma, stroke or brain tumor, and not just based on a Snellen test. The OMCS believes it can rely on medical opinions regarding whether a driver's visual capacity is sufficient to enable safe operations. The medical information is combined with information on experience and driving records in the agency's overall determination whether exempting applicants from the vision standard is likely to achieve a level of safety equal to that existing without the exemption.

The other issues raised by the AHAS which object to the agency's reliance on conclusions drawn from the vision waiver program, raise procedural objections to this proceeding, claim the agency has misinterpreted statutory language on the granting of exemptions (49 U.S.C. 31315 and 31136(e)), and finally, suggest that a recent Supreme Court decision affects the legal validity of vision exemptions, were addressed at length in 64 FR 51568 (September 23, 1999), 64 FR 66962 (November 30, 1999) and 64 FR 69586 (December 13, 1999). We see no benefit in addressing these points again and refer interested parties to those earlier discussions for reasons why the points are rejected.

Notwithstanding the OMCS' ongoing review of the vision standard, as evidenced by the medical panel's report dated October 16, 1998, and filed in this docket, the OMCS must comply with *Rauenhorst v. United States Department of Transportation*, Federal Highway Administration, 95 F.3d 715 (8th Cir. 1996), and grant individual exemptions

under standards that are consistent with public safety. Meeting those standards, the 40 veteran drivers in this case have demonstrated to our satisfaction that they can continue to operate a CMV with their current vision safely in interstate commerce because they have demonstrated their ability in intrastate commerce. Accordingly, they qualify for an exemption under 49 U.S.C. 31315 and 31136(e).

Conclusion

After considering the comments to the docket and based upon its evaluation of the 40 exemption applications in accordance with *Rauenhorst v. United States Department of Transportation, Federal Highway Administration, supra*, the OMCS exempts Herman Bailey, Jr., Mark A. Baisden, Brad T. Braegger, Kenneth Eugene Bross, Erick H. Cotton, Fletcher E. Creel, Richard James Cummings, Daniel R. Franks, William L. Frigic, Curtis Nelson Fulbright, Victor Bradley Hawks, Vincent I. Johnson, Myles E. Lane, Sr., Dennis J. Lessard, Jon G. Lima, Richard L. Loeffelholz, Herman Carl Mash, Joseph M. Porter, Richard Rankin, Robert G. Rasicot, A.W. Schollett, Melvin B. Shumaker, Clark H. Sullivan, Wayland O. Timberlake, Norman R. Wilson, Larry M. Wink, Jeffrey G. Wuensch, Jon H. Wurtele, Walter M. Yohn, Jr., Steven H. Heidorn, James Donald Simon, William A. Bixler, Woodrow E. Bohley, George L. Silvia, Martin Postma, Steven L. Valley, Phillip P. Smith, Robert W. Nicks, Frank T. Miller, and Roger Allen Dennison from the vision requirement in 49 CFR 391.41(b)(10), subject to the following conditions: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in its driver qualification file, or keep a copy in his/her driver qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving so it may be presented to a duly authorized Federal, State, or local enforcement official.

In accordance with 49 U.S.C. 31315 and 31136(e), each exemption will be valid for 2 years unless revoked earlier by the OMCS. The exemption will be

revoked if (1) the person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136. If the exemption is still effective at the end of the 2-year period, the person may apply to the OMCS for a renewal under procedures in effect at that time.

Authority: 49 U.S.C. 322, 31315 and 31136; 49 CFR 1.73.

Julie Anna Cirillo,

Acting Director, Office of Motor Carrier Safety.

[FR Doc. 99-34043 Filed 12-30-99; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

December 21, 1999.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, N.W., Washington, D.C. 20220.

DATES: Written comments should be received on or before February 2, 2000 to be assured of consideration.

U.S. Secret Service (USSS)

OMB Number: 1555-0001.

Form Number: SSF 86A.

Type of Review: Extension.

Title: Supplemental Investigative Data.

Description: Respondents are all Secret Service applicants. These applicants, if approved for hire, will require a Top Secret Clearance, and possibly SCI Access. Responses to questions on the SSF 86A yields information necessary for the adjudication for eligibility of the clearance, as well as ensuring that applicant meets all internal agency requirements.

Respondents: Individuals or households.

Estimated Number of Respondents: 7,500.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion.
Estimated Total Reporting Burden: 7,500 hours.

Clearance Officer: Sandy Bigley, (202) 406-6890, U.S. Secret Service, 7th Floor, 950 H. Street, N.W., Washington, DC 20001-4518.

OMB Reviewer: Alexander T. Hunt, (202) 395-7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 99-34044 Filed 12-30-99; 8:45 am]

BILLING CODE 4810-42-P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

December 21, 1999.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before February 2, 2000 to be assured of consideration.

U.S. Customs Service (CUS)

OMB Number: 1515-0032.

Form Number: Customs Form 5125.

Type of Review: Extension.

Title: Application for Withdrawal of Bonded Stores for Fishing Vessels and Certification of Use.

Description: The Customs Form 5125 is used for the withdrawal and lading of bonded merchandise (especially alcoholic beverages) for use on board fishing vessels and foreign or domestic vessels involved in international trade. The form also certifies the use: total consumption or partial consumption with secure storage for use on next voyage.

Respondents: Business or other for-profit, not-for-profit institutions.

Estimated Number of Respondents: 500.

Estimated Burden Hours Per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 42 hours.